

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEONTE GORDON,

Plaintiff,

CASE No. 1:19-CV-603

v.

HON. ROBERT J. JONKER

UNKNOWN TOWNS, et al.,

Defendants.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Green’s Report and Recommendation in this matter (ECF No. 103) and Plaintiff’s Objections to the Report and Recommendation. (ECF No. 105). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE & PROCEDURE § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

[t]he district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

Fed. R. Civ. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff’s objections. After its review, the Court finds that Magistrate Judge Green’s Report and Recommendation is factually sound and legally correct.

The Magistrate Judge recommends granting Plaintiff's Motion to Amend Complaint (ECF No. 92) but that the newly asserted claims within it be dismissed for failure to state a claim. The Magistrate Judge further recommends the Court grant, in part, Defendants' Motion for Summary Judgment. (ECF No. 79). More specifically, the Magistrate Judge advises dismissing the remaining claims against Defendants Govern, McMurphy, and Maure, but that Plaintiff's First Amendment claim against Defendant Town proceed forward. In his Objections, Plaintiff primarily reiterates and expands arguments he presented in his motion papers. The Report and Recommendation already carefully, thoroughly, and accurately addresses these arguments. Nothing in Plaintiff's Objections changes the fundamental analysis. The Court agrees with the Magistrate Judge's conclusions for the very reasons the Report and Recommendation delineates.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 103) is **Approved and Adopted** as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's Motion to Amend Complaint (ECF No. 92) is **GRANTED** to the extent Plaintiff seeks to amend his complaint. The newly added claims are dismissed for failure to state a claim, under 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c).

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (ECF No. 79) is **GRANTED IN PART** and **DENIED IN PART**. Plaintiff's remaining claims against Defendants Govern, McMurphy, and Mauerer are dismissed. This case shall proceed on Plaintiff's First Amendment claim against Defendant Town only.

Dated: October 20, 2021

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE